



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

Mr. Lee McDonnell, Director
Bureau of Point & Non-Point Source Management
Pennsylvania Department of Environmental Protection
Rachel Carson State Office Building
400 Market Street
Harrisburg, Pennsylvania 17105

AUG 05 2013

Dear Mr. McDonnell:

The Pennsylvania Department of Environmental Protection (PADEP) reissued its general permit for discharges from small municipal separate storm sewer systems (MS4s) (PAG-13 Permit) with an effective date of March 16, 2013. 41 Pa.B. 5042 (Sept. 17, 2011). Prior to issuing the Permit, PADEP public-noticed the proposed permit in the Pennsylvania Bulletin, with a comment period that ran from April 4 through July 6, 2009. 39 Pa.B. 1749 (April 4, 2009); 39 Pa.B. 2400 (May 9, 2009).

EPA understands that PADEP received numerous comments on the proposed permit during the public notice period. However, EPA's latest information suggests that PADEP's final issuance of the PAG-13 permit did not include a required comment response document as part of the permit document package. Federal regulations (*See* 40 C.F.R. §124.17) require the following information to be included with permit issuance:

(a) At the time that any final permit decision is issued under § 124.15, the Director shall issue a response to comments. States are only required to issue a response to comments when a final permit is issued. This response shall:

(1) Specify which provisions, if any, of the draft permit have been changed in the final permit decision, and the reasons for the change; and

(2) Briefly describe and respond to all significant comments on the draft permit . . . raised during the public comment period, or during any hearing.

...

(c) The response to comments shall be available to the public.

EPA has previously made PADEP aware of this oversight via email from Elizabeth Ottinger to Barry Newman dated April 10, 2012 (see email attached). At that time, PADEP assured EPA that the document was under development. To date, EPA has yet to see a final document responding to the numerous comments that the Department received during the permit finalization process.

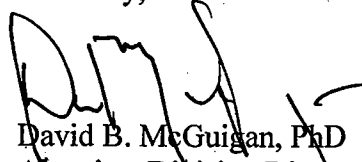


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PADEP should provide a comment response document as soon as possible to document compliance with federal requirements. In addition to submitting the comment response document to EPA, PADEP must also share it with individuals who provided comments. This will also serve to convey PADEP's position on concerns that may arise as the MS4 program continues to be implemented.

If you have any further questions, please contact me or Evelyn MacKnight of my staff at 215-814-5717.

Sincerely,



David B. McGuigan, PhD
Associate Division Director
Office of NPDES Permits & Enforcement
Water Protection Division

Enclosure

cc: Ron Furlan, PADEP Central Office

